

Carrington, David

From: David Carrington <dcarrington@racingusa.com>
Sent: Tuesday, August 02, 2011 4:25 AM
To: Carrington, David
Subject: Revised Counter
Attachments: Sewer Offer 8.1.11.docx

STRICTLY CONFIDENTIAL AND PRIVILEGED

**FOR SETTLEMENT PURPOSES ONLY; CONFIDENTIAL SETTLEMENT
COMMUNICATION PROTECTED BY ALA. R. EVID. 408 AND FED R. EVID. 408**

Outline of Terms for Settlement and Refinancing of Jefferson County's Sewer Debt

Sewer Financing Matters:

1. Sewer debt to be refinanced.
2. Amount available for retirement of existing debt: \$1.91 billion.
3. Assumptions for refinancing debt:
 - Principal amount: \$2.133 billion
 - Interest rates: Current interest bonds - 6.3% Capital appreciation bonds - 6.55%.
Market risk is the sole responsibility of the creditors.
 - DSRF: \$213.3 million (10% of principal)
 - 1.25x coverage
 - County's pays 50% of the costs for issuance (approximately \$10 million)
 - 40-year final maturity
 - Operating expenses and capital needs covered by cash flow
4. State credit support for refinancing debt in the form of "moral obligation" agreement to seek legislative appropriations to replenish DSRF if drawn upon. County to reimburse State appropriations, if any.
5. Sewer system to be transferred to, and refinancing debt to be issued by, GUSC organized under new legislation, with independent and qualified management. Chapter 9 permitted with Governor's approval. Future rate increases to service debt, subject to reasonableness. Outline of key elements of the legislation will be provided 14 days after written acceptance of this offer by the creditors.
6. Refinancing contingent upon settlement of all claims in current litigation relating to sewer system.
7. Refinancing contingent upon settlement of County's litigation against JP Morgan on terms satisfactory to County.
8. SEC settlement funds to be retained by County for General Fund purposes.
9. Refinancing contingent upon negotiation of Closing Agreement with IRS covering existing debt and proposed refinancing debt at a cost, if any, satisfactory to County.
10. Refinancing contingent upon judicial confirmation of financing structure (including that State's moral obligation pledge does not violate constitutional restriction on debts of State) and proposed sewer rates. If rates are found to be unreasonably high, the principal amount will be reduced appropriately.
11. Refinancing contingent on approval of all federal and state regulatory agencies.
12. Standstill agreement continues during refinancing period; interim sewer rate increases to be implemented by the Commission consistent with the settlement proposal as long as the parties are pursuing settlement and refinancing in good faith.
13. Syncora litigation against County to be suspended during refinancing period; County's legal fees to be reimbursed from sewer revenues.
14. 2009 and 2010 audited financial statements will be completed by September 30, 2011.

15. 2011 audited financial statements will be completed by January 31, 2012.
16. Chapter 9 will not be filed for sewer matters as long as the standstill is in effect. Chapter 9 may be filed at any time during the standstill period due to other reasons, including but not limited to General Fund or Legislative issues.
17. Creditors will provide \$50 million for a Poor Fund.
18. Receiver shall represent to the County Commission in writing within 7 days of acceptance that all projected ESD rates, revenues, usage, average monthly bills, operating expenses and capital requirements in his reports are trustworthy.
19. County Commission will retain independent consultants to review Receiver's rate reasonableness studies, cost of service studies, engineering studies, operating cost studies, etc. and these consultants will be paid by the Receiver. Receiver agrees to cooperate with these outside consultants without the threat of future business limitations.
20. All amounts owed to the County's General Fund for legal expenses and support services will be paid in full by the Receiver within 14 days after written acceptance of this offer by the creditors.
21. Receiver will turn operation control to the GUSC within 6 months of Legislative authorization of the entity. Receiver will move from an operational to a consulting / oversight role.
22. The parties will use "best efforts" to finalize re-financing within twelve months of the acceptance date. The Receiver services will be immediately terminated on the re-financing date.
23. Offer expires at noon on Thursday, August 4, 2011.

Other Matters:

24. General Fund relief required to implement settlement:
 - a. Enactment of a \$43 million General Fund fix.
 - b. Variable rate GO warrants held by liquidity banks to be retired on original amortization schedule.
 - c. Occupational tax refund lawsuit to be settled on terms acceptable to County.
25. School warrant relief required to implement settlement:
 - a. Satisfactory funding schedule for DSRF based on excess school warrant proceeds; any existing defaults to be cured or waived.
26. Legislation required to implement settlement and refinancing plan:
 - a. \$43 million General Fund fix
 - b. GUSC authorization
 - c. Authorization for State's moral obligation credit support
 - d. Mandatory sewer hook-ups for new developments within a pre-determined distance to the sewer, which can be waived by the GUSC due to geological, environmental or ecological issues.